

ORDINANCE NO. 07-47

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 10. PARKING, OF THE CODE OF ORDINANCES BY ADDING A NEW SECTION, HIALEAH CODE § 98-2205 ENTITLED "PILOT PARKING AREAS IN FPL EASEMENTS" TO PROVIDE REGULATIONS TO ALLOW FOR PARKING IN TWO PILOT PARKING AREAS IN THE CITY; PROVIDE A PURPOSE, GEOGRAPHIC BOUNDARIES FOR THE TWO PILOT PARKING AREAS, USES PERMITTED AND TYPES OF VEHICLES ALLOWED, HOURS OF OPERATION, LANDSCAPING AND DEVELOPMENT REQUIREMENTS, AND TIME PERIOD FOR OBTAINING A PERMIT AND COMPLETE CONSTRUCTION TO BRING PROPERTIES INTO COMPLIANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of April 25, 2007 submitted this ordinance to the City Council, without recommendation; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose of this ordinance is to establish development criteria that will curtail the deterioration and misuse of FPL easements that lie between industrial areas and residential areas, while providing parking space for selected vehicles with a CBS wall, 25-foot landscape buffer and limited hours of operation; and

WHEREAS, the City of Hialeah shall construct a uniform 8-foot high CBS decorative wall, with permission of the FPL easement property owners, along the eastern property line in Pilot Area 1 (approximately 450 linear feet) and Pilot Area 2 (approximately 1,000 linear feet) at an estimated cost of \$90.00 for each linear foot, with the City contributing the sum of \$52,200 or 40% of the cost and the FPL easement property owners contributing the balance or 60% of the cost to be shared among the

property owners based on the amount of linear feet of the eastern property line within each owner's property; and

WHEREAS, this ordinance also finds a distinction between property owners who have owned and used the easement area for required or overflow parking for their adjacent businesses on property outside the easement area and certain property owners that own or lease the easement area independently of any adjacent business, located outside the easement area, without prior zoning approval.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article VI. Supplementary District Regulations, Division 10, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new section, Hialeah Code § 98-2205 entitled "Pilot parking areas in FPL easements", to read as follows:

Chapter 98

ZONING

* * *

**ARTICLE VI. SUPPLEMENTARY DISTRICT
REGULATIONS**

* * *

DIVISION 10. PARKING

* * *

Sec. 98-2205. Pilot parking areas in FPL easements.

(a) Purpose. Pilot parking areas are intended to provide parking on Florida Power and Light Company (FPL) easements that lie between industrial and residential properties and that are under maintained or used in a way that negatively impacts the adjacent residential properties. The establishment of development criteria will curtail the deterioration and misuse of easements while providing

parking space for selected vehicles.

(b) Geographic boundaries.

(1) Pilot parking area 1 comprises a 160-foot wide strip of land having West 34 Street, as its southern boundary, West 37 Street, as its northern boundary, 160 feet west of West 15 Avenue, if extended, as its western boundary, and West 15 Avenue, if extended, as its eastern boundary.

(2) Pilot parking area 2 comprises a 160-foot wide strip of land having West 76 Street, as its southern boundary, West 84 Street, as its northern boundary, West 19 Court, if extended, as its western boundary, and the west property line of the lots that face West 18 Lane, as its eastern boundary.

(c) Permitted uses and regulations. Parking commercial, customer and employee vehicles in FPL easements, subject to the consent of FPL, in pilot parking area numbered 1 and 2 shall be permitted as follows:

(1) The type of vehicle permitted to park in the FPL easement are limited to a passenger car, sport/utility, light truck, van, wheelchair lift van, boat trailer, recreational boats, RV-folding trailer, Class A, B and C tow trucks with the crane in a collapsed position screened from view of abutting residential neighbors, slide-in campers, shuttle van, Class B and C motor homes, small-sized jet engine trailers, Class 2, 3, 4, and 5 vehicles (FHWA classification) and a school bus. Diesel-operated vehicles are allowed only to park and circulate within an area at a minimum distance separation of 80 feet from the adjacent residential property line. All other types of vehicles are prohibited and no variance will be granted concerning vehicle types.

(2) Permitted use as a commercial parking lot as defined by section 98-2186. A commercial parking lot may not be used for the storage of vehicles, including, but not limited to, motor vehicles that are untitled or licensed to a motor vehicle dealer.

(3) Permitted use as storage of vehicles solely used in connection with the business of the property owner or tenant.

(4) Use for overflow or required parking if the property owner owns the easement and the adjacent industrial property and joins the two properties under a unity of title.

(5) The hours of operation shall be limited to 6:00 a.m. to 7:00 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, except that if FHWA Class 4 and Class 5 vehicles commence operations from 6:00 a.m. to 8:00 a.m., such vehicles shall only operate within an area at a minimum distance separation of 80 feet from the adjacent residential property line. The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m. on Saturdays and Sundays. Employee parking is exempt from the hours-of-operation limitations. No motor vehicles shall be driven or relocated on the easement during the hours that the business is closed and during non-operational hours as provided in this paragraph.

a. In pilot parking area numbered 2, properties that are owned or leased and operated independently of the adjacent business, if the adjacent business is located outside the easement area, shall have hours of operation from 9:00 a.m. to 5:00 p.m. on all days.

(6) No maintenance or repair work on the vehicles shall be allowed.

(7) The owner or tenant shall obtain a city occupational license/business tax receipt prior to operating its business or conducting any business activity in pilot parking area numbered 1 and 2.

(d) *Landscape and development requirements.*

(1) In pilot parking area numbered 1 and 2, an 8-foot prefabricated concrete decorative wall and a 25-foot landscape buffer along or as closely parallel to the property line adjacent to residential properties shall be provided to act as a visual and acoustic buffer

separating the easement uses from the residential properties. The buffer area shall be landscaped according to an easement landscaping plan adopted by the city for the pilot parking areas. The property owner shall maintain all planting material within the landscape buffer. Irrigation shall be provided for landscaped buffer area as approved by the city. No buildings or structures other than FPL power lines or FPL facilities shall be placed on or above the landscaped buffer area. All parking areas shall comply with the paving and drainage requirements of section 98-2194 herein and the marking and striping requirements of section 98-2195 herein.

(2) Existing property owners in pilot parking area numbered 1 and 2 shall obtain a building permit within six months of the effective date of this ordinance and complete construction within 12 months of the effective date of this ordinance in order to comply with the provisions of this section. Failure to obtain a building permit within six months and failure to complete construction within 12 months of the effective date of this ordinance shall cause the city to revoke all occupational licenses issued in connection with or arising out of the business activities conducted on the property and thereupon, the property owner or tenant shall cease conducting any business activities on the property and return to the property to a grass lot.

(e) *Precedence over other zoning and land use regulations.* To the extent that there is any conflict, inconsistency or difference between other zoning and land use regulations, the regulations of this section shall prevail.

(f) *Violation.* The City has the authority to revoke all occupational licenses on the premises for any violation of the provisions of this section in addition to other legal or administrative remedies, including, but not limited to, the imposition of civil fines, as provided in the Hialeah Code.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

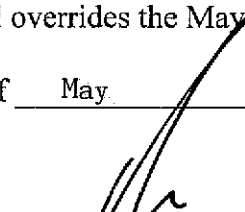
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 22nd day of May, 2007.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



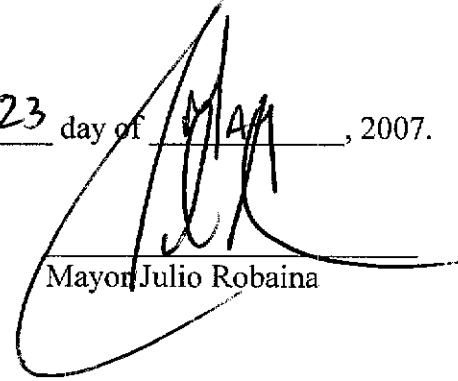
Esteban Bovo
Council President

Attest:

Approved on this 23 day of MAY, 2007.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 5-1-1 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Hernandez, and Yedra voting "Yes", Councilmember Miel voting "No" and Councilmember Gonzalez absent.